

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 08 2004

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

SERGIO ALFONSO
ARREOLA-ARREOLA,

Petitioner,

v.

JOHN ASHCROFT, Attorney General,

Respondent.

No. 02-71614

Agency No. A11-434-117

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Argued and Submitted October 9, 2003
San Francisco, California

Before: PREGERSON, BEAM, ** and PAEZ, Circuit Judges.

*This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

**Honorable C. Arlen Beam, Senior United States Circuit Judge for the Eighth Circuit, sitting by designation.

Petitioner Sergio Alfonso Arreola-Arreola (“Arreola”) appeals from the Board of Immigration Appeals’ (“BIA”) denial of his Motion to Reopen. The BIA dismissed Arreola’s Motion to Reopen on the ground that it lacked jurisdiction because Arreola had departed the country and illegally reentered before filing his Motion to Reopen; and because the 1998 removal order that Arreola sought to reopen had been reinstated pursuant to INA § 241(a)(5), 8 U.S.C. § 1231(a)(5).

We agree that the BIA lacks jurisdiction to reopen Arreola’s removal order because that order has been reinstated. *See* INA § 241(a)(5), 8 U.S.C. § 1231(a)(5) (“[T]he removal order is reinstated from its original date and is not subject to being reopened or reviewed.”). Accordingly, we affirm the BIA’s denial of Arreola’s Motion to Reopen.

AFFIRMED.